

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS  
BOSTON DIVISION

Musket Research Associates, Inc.	)	No. 05-CV-10416 MEL
	)	
Plaintiff,	)	
	)	
v.	)	
	)	
Ovion, Inc., William S. Tremulis, and Jeffrey	)	
P. Callister,	)	
	)	
Defendants.	)	

**OPPOSITION TO DEFENDANTS' MOTION FOR AN EXTENSION OF TIME TO  
RESPOND TO THE AMENDED COMPLAINT**

Plaintiff Musket Research Associates, Inc., ("MRA") hereby opposes the request of Defendants Ovion, Inc. ("Ovion"), William Tremulis and Jeffrey Callister (collectively, the "Defendants") for a 10-day extension of time to answer or otherwise respond to the Amended Complaint in the above-captioned matter.

Defendants have had ample time to respond to the Amended Complaint. The initial Complaint in this action was filed on March 7, 2005. It was served on Ovion on March 7, 2005 and on Tremulis and Callister on March 9, 2005. MRA filed its Amended Complaint on March 16, 2004, and served it on all the Defendants on March 18, 2004. The factual allegations of the Amended Complaint are virtually unchanged from those of the original Complaint, and it states only one new cause of action—for unfair business practices under Massachusetts General Law Chapter 93A—that shares the factual predicate of the other causes of action. Thus, virtually all of the investigation or analysis relevant to Ovion's response to the Amended Complaint could have begun on March 7, 2005. Defendants' response to the Amended Complaint was initially due on April 7, 2005. Defendants requested an extension, and MRA gave them until April 18, 2005 to respond: an additional eleven days. In other words, between the near identity of the

Complaint and the Amended Complaint, and the extension already granted by MRA, Defendants effectively have had 41 days to respond to MRA's claims, more than twice as long as mandated by Federal Rule of Civil Procedure 12. Because they have already had substantial extra time, Defendants' request for even more time to respond to the Amended Complaint is unreasonable.

In addition, MRA will be especially prejudiced if, rather than answering the Amended Complaint, Defendants use the extra time granted to prepare a Rule 12 motion. In the event the Court grants this motion and Defendants file a responsive motion in lieu of an answer, MRA requests that it be given an additional 25 days to oppose any such motion.

For the reasons set forth above, the Court should deny Defendants' request for an extension of time.

Date: April 21, 2005.

Respectfully submitted,

MUSKET RESEARCH ASSOCIATES, INC.

By Their Attorneys,

/s/ Lisa M. Gaulin

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